



# Massachusetts Division of Marine Fisheries

Daniel J. McKiernan, Director

## Policies, Procedures, and Guidelines

### Transfer of Rod & Reel Limited-Entry Black Sea Bass, Fluke, and Tautog Endorsements

**Introduction and Purpose:** This policy establishes the transferability and actively fished criteria for rod & reel limited-entry Fluke, Sea Bass, and Tautog endorsements. This policy replaces the “Fluke Endorsement Transfers Between Immediate Family Members” policy, implemented on April 27, 2011. When held in combination, these three species-specific endorsements are commonly fished together by rod & reel fishermen. Fishers that have all three endorsements are able to target species based on seasonality, availability, and whether or not the commercial fishery is open at a given time. Allowing these endorsements to be transferred as a “bundle” when the actively fished criteria is met will enhance fishing opportunities of transfer recipients.

**Background:** Pursuant to the authority at M.G.L. c. 130, §§ 2, 17, 17A, and 80 and 322 CMR 7.01 and 7.06, the Director of the Division of Marine Fisheries (DMF) may control the issuance, renewal, and transfer of commercial fishing permits and permit endorsements. This authority includes, but is not limited to, enacting permit issuance moratoriums to limit entry into a fishery and prescribing the means and manners by which limited entry permits and permit endorsements can be transferred.

Most commercially important fisheries at the federal and state level have adopted limited entry rules where future permit issuance is limited to a select group of existing permit holders, generally based on past participation. This is known as an “input control” where the number of participants or vessels is controlled in an attempt to limit harvest or fishing mortality. In contrast, “output control” measures are direct controls on total harvest, known as hard quotas.

Since the 1970’s, input controls have been a key component of DMF’s inshore fisheries management strategy. In the Commonwealth, limiting entry into fisheries began in the 1970’s with limits on Coastal Lobster permits and Tuna Purse Seine permit endorsements. In the past three decades, permits and endorsements authorizing the use of certain gears or harvest of certain species have become limited entry.

Once entry into a fishery is limited, new participants may only gain access through a permit transfer, or other similar means. Otherwise, attrition would eventually result in the extinguishing of a fishery with the retirement of the last permit holder. Consequently, permit/endorsement transfers are usually considered essential to allow ingress and egress into the industry once managers achieve some optimal level of participation.

Transfers of limited entry permits or endorsements are conducted under regulations and policies established by DMF. Persons seeking to transfer permits/endorsements must work through DMF because state law and regulations prohibit the transfer, loan, lease, exchange, barter or sale of any permit without permission of the Director. See Ch 130, § 2 and 322 CMR 7.01(14)(e).

In the current permit structure most commercial fishers hold either a lobster permit (coastal or offshore) or a boat permit as a “base permit”. Each of these base permits may then be further endorsed for one or more regulated fishery types through permit “endorsements.” These endorsements essentially are permits to participate in a variety of regulated fisheries and delineate use of certain gears (e.g. gillnets, mobile gear, fish pots) or harvest of quota managed species (e.g. fluke, scup, black sea bass, menhaden, state waters multispecies groundfish, tautog).

Transferring limited-entry permits/endorsements requires the holder to contact the agency in writing, have the agency determine the permit and/or endorsements’ eligibility for transfer, and then complete a form with notarized signatures between the holder and the intended recipient. Criteria for transferring a limited-entry endorsement are governed by 322 CMR 7.06.

There are currently six species-specific permit endorsements under limited entry: Fluke, Black Sea Bass, Horseshoe Crab, Multispecies Groundfish, Menhaden, and Tautog. There is also one limited-entry species-specific permit: Lobster. This policy applies only to Fluke, Sea Bass, and Tautog endorsements (see Table 1).

**Table 1. Limited-entry endorsements and the date limited-entry was established.**

Limited-Entry Endorsement	Limited-Entry Date
Fluke	1999
Sea Bass	2012
Tautog	2020

#### *Fluke Endorsements*

In the case of Fluke endorsements, DMF’s initial policy was to restrict the transfers of Fluke endorsements, especially among rod and reel fishermen due to the proliferation of the permits sold to this sector prior to the limited-entry program being established in 1999. This is consistent with the goal of making the fishery limited entry, which was to reduce the overall number of endorsements issued. Allowing liberal transfers of this endorsement would reduce the moratorium’s effectiveness towards this objective. However, inshore trawlers with Coastal Access Permit (“CAP”) endorsements operating without a Fluke endorsement transfer would likely result in excessive discards, thus those CAP endorsement holders who transfer their CAP and sell their businesses (vessels, permits, etc.) have been allowed to transfer their Fluke endorsement if the other measure(s) of activity were met to keep the business whole. For the offshore trawl fishery, especially vessels too large to fish in state waters, when vessels and federal permits are sold, DMF allows the transfer of the Fluke endorsement to prevent regulatory discards in the offshore fishery. In 2011, DMF established a policy allowing the transfer of Fluke endorsements between immediate family members, provided the endorsement had been actively

fished. Primarily, this policy allowed the continued participation in the fishery of children of permit holders who were aging out of the fishery.

#### *Black Sea Bass*

In response to the seasonal, near-shore abundance of black sea bass, a limited and static commercial fishing quota, and significantly increased commercial fishing effort in recent years, the Director of the Division of Marine Fisheries, pursuant to his authority at M.G.L. c. 130, § 80 and 322 CMR 7.01(4), ceased the issuance of new commercial Sea Bass endorsements in May, 2012. Subsequent rulemaking established the Sea Bass endorsement as limited entry by regulation. Similar to Fluke endorsements, Sea Bass endorsements have been transferable as part of an active CAP endorsement transfer, as well as in the sale of offshore vessels with federal moratorium sea bass permits.

#### *Tautog*

In order to effectively implement the tautog harvester tagging program, mandated by ASMFC's Tautog Fisheries Management Plan, DMF limited entry into the commercial tautog fishery beginning in 2020. This was done by using the existing August 28, 2017 control date and certain qualifying criteria. Only those permit holders who met the qualifying criteria codified through the regulatory process were eligible to renew their Tautog endorsement in 2020. The qualifying criteria were: (1) a commercial fisherman must have held a commercial tautog permit in 2018 or 2019; and (2) sold more than 120 pounds of tautog to a seafood dealer in any calendar year between 2010 and 2016. This qualifying (2010 – 2016) time-period represents those years between the implementation of mandatory trip level harvester reporting (2010) and the August 28, 2017 control date.

#### *Transferability*

Around 2020, there was increasing interest to allow the transfer of these permit endorsements among rod and reel fishers. Many of these transfer requests have come from older fishers looking to retire and transfer their permit on to younger fishers. There is also considerable interest from fishers, who do not currently have one or more of these endorsements, looking to enter these rod & reel fisheries. With consideration towards the median age of current permit holders, the limited scope of open entry fishing opportunities for new entrants, and existing output controls to manage overall harvest, DMF determined that it is in the best interest of the Commonwealth *to allow the transfer of actively fished rod & reel Fluke, Sea Bass, and Tautog endorsements to eligible recipients*, provided that the endorsement meets the actively fished criteria.

Additionally, DMF allowed *permit holders to “bundle” two or more of these endorsements, provided that the established standards of “actively fished” are met*. Allowing these types of bundled endorsement transfers would serve two main purposes: (1) it enables rod & reel fishing businesses to remain “whole” and gives the transferee the potential for more diverse commercial fishing opportunities and (2) by encouraging permit holders to transfer their endorsements in bundles, DMF is discouraging the splitting of one fishing operation into two, thus reducing proliferation of permits and effort.

In 2024, DMF amended and lowered the actively fished criteria at 322 CMR 7.06 for these three permit endorsements. Rather than requiring the permit endorsements be fished four out of the past five years to be considered transferable, they now only need to be actively fished for two out of the past five years. Accordingly, this 2021 policy has been updated to reflect this regulatory amendment.

**Policy:** DMF will allow the transfer of Fluke, Sea Bass, and Tautog endorsements provided they have been actively fished in two of the last five years and the permit holder is in good standing (consistent with 322 CMR 7.06).

Actively fished for one or more of these endorsements is defined as having landed at least one trip limit, annually in aggregate, in two out of the last five years. For the purpose of this policy a trip limit for fluke is 400 pounds; for black sea bass is 250 pounds; and for tautog is 120 pounds.

Consistent with the existing “Transfer Bundling Policy”, two or three of these endorsements may be transferred as a bundle if at least one meets the actively fished criteria.